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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-924]

Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review Pursuant to Court Decision

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On July 22, 2014, the United States Court of International Trade ("CIT") sustained the Department of Commerce's ("the Department") results of redetermination, pursuant to the CIT's remand order, in Dupont Teijin Films v. United States, 997 F. Supp. 2d 1338 (CIT 2014).¹

Consistent with the decision of the United States Court of Appeals for the Federal Circuit ("CAFC") in Timken Co. v. United States, 893 F.2d 337 (Fed. Cir. 1990) ("Timken"), as clarified by Diamond Sawblades Mfrs. Coalition v. United States, 626 F.3d 1374 (Fed. Cir. 2010) ("Diamond Sawblades"), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's PET Film Final Results² and is amending the final results with respect to the margins assigned to Tianjin Wanhua Co., Ltd., Sichuan Dongfang Insulating Material Co., Ltd., Fuwei Films (Shandong) Co., Ltd., and Shaoxing Xiangyu Green Packing Co., Ltd. ("Respondents") for the period of review ("POR") November 1, 2009, through October 31, 2010.

¹ See Final Results of Redetermination Pursuant to Court Remand, Court No. 12-00088, dated February 7, 2014, available at: <http://enforcement.trade.gov/remands/index.html> ("PET Film Final Remand").

² See Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Results of the 2009-2010 Antidumping Duty Administrative Review of the Antidumping Duty Order, 77 FR 14493 (March 12, 2012) ("PET Film Final Results").

EFFECTIVE DATE: (August 1, 2014)

FOR FURTHER INFORMATION CONTACT: Thomas Martin, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-3936.

SUPPLEMENTARY INFORMATION:

On March 12, 2012, the Department published the PET Film Final Results. Domestic producers Dupont Teijin Films, Mitsubishi Polyester Film, Inc., SKC, Inc., and Toray Plastics (America), Inc. appealed the PET Film Final Results to the CIT, and on February 7, 2013, the CIT issued its first remand order in this case concerning the Department's selection of its surrogate country.³ On August 21, 2013, the CIT issued its second remand and ordered the Department to reconsider its surrogate country selection with the benefit of 2009 per-capita gross national income data.⁴

Pursuant to the CIT's remand instructions, the Department, under protest, selected South Africa as the primary surrogate country for calculating normal value.⁵ The CIT sustained the Department's PET Film Final Remand on July 22, 2014,⁶ and, as a result, the Respondents' dumping margins changed.

Timken Notice

In its decision in Timken, 893 F.2d at 341, as clarified by Diamond Sawblades, the CAFC has held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the "Act"), the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court

³ See Dupont Teijin Films v. United States, 896 F. Supp. 2d 1302 (CIT 2013).

⁴ See Dupont Teijin Films v. United States, 931 F. Supp. 2d 1297 (CIT 2013) ("Remand Opinion and Order").

⁵ See PET Film Final Remand.

⁶ See Dupont Teijin Films v. United States, 997 F. Supp. 2d 1338 (CIT 2014).

decision. The CIT's July 22, 2014, judgment sustaining the PET Film Final Remand constitutes a final decision of that court that is not in harmony with the PET Film Final Results. This notice is published in fulfillment of the publication requirements of Timken.

Amended Final Results

Because there is now a final court decision with respect to the PET Film Final Results, the revised dumping margins are as follows:

Exporter	Weighted-Average Margin (Percent)
Tianjin Wanhua Co., Ltd.	19.49
Sichuan Dongfang Insulating Material Co., Ltd.	14.25
Fuwei Films (Shandong) Co., Ltd.	19.35
Shaoxing Xiangyu Green Packing Co., Ltd.	19.35

Because no party appealed the CIT's decision before the period of appeal expired on September 22, 2014, the CIT's decision is now final and conclusive. Accordingly, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on entries during the POR of the subject merchandise exported by the Respondents using the revised assessment rates calculated by the Department in the PET Film Final Remand.

Cash Deposit Requirements

Since the PET Film Final Results, the Department has established a new cash deposit rate for the Respondents.⁷ Therefore, the Respondents' cash deposit rates do not need to be updated as a result of these amended final results. The cash deposit rate for the Respondents will remain the rate established for the subsequent and most-recent period during which the Respondents were reviewed.

⁷ See Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 37715 (July 2, 2014).

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: September 29, 2014.

Paul Piquado,
Assistant Secretary
For Enforcement and Compliance.

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